



Frequently Asked Questions about the Petition to Delist Peirson's Milk-Vetch

Q. What is Peirson's milk-vetch (*Astragalus magdalenae* var. *peirsonii*)?

Peirson's milk-vetch is a short-lived perennial plant in the pea family. The plant grows from 8 to 27 inches high and produces purple flowers. Found only in scattered occurrences within a portion of the Algodones Dunes in Imperial County, California, Peirson's milk-vetch was listed as a threatened species under the Endangered Species Act (ESA) of 1973, as amended.

Q. What is a 90-day finding on a petition?

When the Service receives a petition to list, delist, or reclassify a species, the first step is to complete an initial finding to determine if the petition provides substantial information that the requested action is warranted. The finding on the petition is to be made, to the maximum extent practicable, within 90 days of receiving the petition, and the Service is required to publish a finding in the *Federal Register*.

Q. What is meant by substantial information?

When a petition is evaluated to determine if it is substantial, the Service considers the adequacy and reliability of the information contained in the petition and its supporting documentation. A substantial finding means that the Service has determined that the information presented in the petition, or otherwise available, is reliable and accurate and leads one to believe the petitioned action may be warranted.

Q. When was the Service petitioned to delist Peirson's milk-vetch?

The Service received a petition on July 30, 2005, from the American Sand Association, the Off-Road Business Association, the San Diego Off-Road Coalition, the California Off-Road Vehicle Association, and the American Motorcycle Association – District 37, requesting to delist the Peirson's milk-vetch. After reviewing the information contained in the petition and other information in the Service's files, the Service has determined the petition is substantial.

Q. Is this the second time the Service has been petitioned to delist Peirson's milk-vetch?

Yes, the Service was previously petitioned to delist the plant in October 2001. That petition, submitted to the Service by the American Sand Association, the San Diego Off-Road Coalition, and the Off-Road Business Association, asserted that Peirson's milk-vetch should be delisted because:

- data used to list the species was in error,
- new information indicates healthy populations of the plant are found throughout the Algodones Dunes, and
- the listing did not take into account conservation measures associated with the passage of the California Desert Protection Act.

After determining the petition presented substantial information, a review of the plant's status was initiated. In 2004, the Service published a finding that Peirson's milk-vetch did not qualify for delisting as the plant remained threatened by impacts resulting from increasing off-highway vehicle use in its habitat,

and sensitivity to range-wide declines resulting from adverse environmental conditions (e.g., drought).

Q. How does this new petition differ from the 2001 delisting petition?

The July 2005 petition to remove ESA protections for Peirson's milk-vetch asserts that, based on four additional years of data collection, the plant is even more abundant and widespread than was reported in the 2001 petition and that the plant's population and reproductive capacity are stable and strong enough to warrant delisting.

Q. Has OHV use changed because of this listing?

The BLM manages the Imperial Sand Dunes Recreation Area (ISDRA), a part of the overarching California Desert Conservation Area (CDCA). A lawsuit was filed against the BLM challenging their failure to consult with the Service regarding effects to listed species from the adoption of the overall CDCA plan. In 2000, the BLM entered into a stipulated settlement agreement regarding interim actions that would be taken to protect listed species while consultation on the larger CDCA plan was in progress. A specific stipulation regarding Peirson's milk-vetch resulted in the closure of approximately 49,000 acres of the 159,000-acre ISDRA to OHV use.

These closures would remain in effect until the BLM completed a consultation with the Service regarding development of a new, updated Recreation Area Management Plan (RAMP) for the ISDRA. The Service completed and issued a new biological opinion to the BLM for their RAMP in January 2005. This opinion addressed impacts of the RAMP on the federally threatened Peirson's milk-vetch and desert tortoise.

In 2000, visitor use at the ISDRA was estimated to be 867,753; in 2001, the year following the closure, visitor use of ISDRA *increased* by 60 per cent (from 867,000 to 1.4 million). The RAMP estimates that by 2012, the ISDRA will receive an average of 1.4 to 2.0 million visitors annually. The temporary closures have not yet been lifted because of ongoing litigation.

Q. If the plant is delisted, will OHV restrictions be modified?

The Service's Biological Opinion for the Recreation Area Management Plan (RAMP) addressed impacts to both Peirson's milk-vetch and the desert tortoise. Additionally, the RAMP identifies 6 other sand dune-dependent species that will be monitored as part of the plan. Because the BLM manages the ISDRA any changes in the implementation of the RAMP would be its responsibility.

Q. What information is relied on in reviewing a petition?

Among the most reliable and credible sources of information are papers published in peer-reviewed scientific literature, or information provided by experts in the relevant subject area. Anecdotal information or information provided by sources without established records of expertise in the subject matter must be strongly corroborated to be considered substantial.

Q. What happens now that the Service has made a substantial finding on the new petition?

Based on the substantial finding on the July 2005 delisting petition, the Service is initiating a review of the species. During this review, public comments and information about the status of Peirson's milk-vetch is requested. The Service will incorporate all new substantive information received and other available information about the plant and its status in preparing a final determination. It is anticipated to take about nine months for the Service to make its final determination, which will then be published in the *Federal Register*.

Q. What factors are relied on when making a determination that delisting is warranted?

The Service can delist a species for one of three reasons: (1) the species is extinct; (2) the species is recovered to the point where protection under the ESA is no longer necessary; or (3) data used in listing the species was in error.

Q. What are the possible outcomes of the Service's review of Peirson's milk-vetch's status?

There are three possible outcomes at the conclusion of the Service's review process: (1) The Service may determine that the plant continues to warrant protection under the ESA; (2) it may be determined that delisting is warranted and a proposal to delist the plant is published concurrently with the review finding; or (3) although delisting is warranted the Service cannot immediately publish a concurrent delisting proposal because of other, higher priority actions it must undertake.

Q. Is the Service seeking public comments and information on the Peirson's milk-vetch?

Yes. The Service is accepting comments and information from all interested parties on this issue through January 30, 2006. Comments and materials may be submitted in writing to the Field Supervisor, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, California 92011, or by facsimile to 760-431-9624. Comments and materials may also be sent by electronic mail to FW1PMV@fws.gov. If you are sending information electronically, avoid the use of special characters or encryption in your message. Also, please include "Peirson's milk-vetch delisting petition" in the subject line of your message and include your name and address in the body of your message.